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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,471	09/18/2001	Marinus Antonius Leonarda Van Heck	U 013648-7	7744

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EXAMINER

KILKENNY, TODD J

ART UNIT

PAPER NUMBER

1733

DATE MAILED: 04/08/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/955,471

Applicant(s)VAN HECK, MARINUS ANTONIU
LEONARDA**Examiner**

Todd J. Kilkenny

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 5-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1 - 4, drawn to a method for connecting flattened tubes, classified in class 156, subclass 158.
 - II. Claims 5 - 12, drawn to a device for connecting flattened tubes, classified in class 156, subclass 433.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process as claimed can be practiced by another and materially different apparatus such as an apparatus without a transport module comprising a beak situated within said tube.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Bill Evans on March 18, 2003 a provisional election was made with traverse to prosecute the invention of Group I, claims 1 - 4. Affirmation of this election must be made by applicant in replying to this Office action.

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Claims 5 – 12 are withdrawn from further consideration by the examiner, 37

CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear what "in particular" does to the scope of the claim. Is the intended use of the tubes limited to being employed as sleeve onto bottles? If so, is applicant trying to limit the scope of the claimed connection method, wherein the flattened tubes are sleeves.

7. Claim 1 recites the limitation "the spent tube" in line 9. There is insufficient antecedent basis for this limitation in the claim.

8. Claim 2 recites the limitation "both flattened tubes" in line 5. There is insufficient antecedent basis for this limitation in the claim. Claim 1 defines a flattened tube and a subsequent tube, not two flattened tubes.

Claim Objections

9. Claim 3 objected to because of the following informalities: In line 1, "wherin" is misspelled. Appropriate correction is required.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1 - 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rop et al (US 4,610,742) in view of Borden et al (US 3,635,504).

Rop et al teach methods for splicing tubular food cases, wherein said tubular food casings are in a flattened state during splicing. In one embodiment (Figures 5 and 6), Rop et al suggest telescoping the leading edge of flattened segment (32) inside the trailing edge of flattened segment (30) to form joint (34). Rop et al fail to teach providing the trailing edge of segment (3) with obliquely cut-away corners so that the leading edge of segment (32) can be slid inside the segment (30) by separating the cut portions (Col. 2, lines 22 – 28; Col. 5, lines 62 – 68).

Borden et al teach a hose splice wherein two hose sections are spliced together by telescoping said hose sections over a fabric-reinforced rubber sleeve. Before telescoping said hose sections over the rubber sleeve, one hose sections is cut to provide obliquely cut-away corners and “tapered fingers” (see Figures 1 and 2, element 12). The hose section is placed over the sleeve (Figure 8), wherein one of ordinary skill in the art would readily recognize telescoping said hose section over a rubber sleeve would include separating the tapered fingers and sliding said tapered fingers over the sleeve, and wherein said tapered fingers would increase the ability to open the hose

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end and therefore increase the ease of insertion in telescoping said hose over said sleeve (Figures 1 and 8; Col. 2, lines 13 – 42).

It would have been obvious to one of ordinary skill in the art at the time of the invention to form “tapered fingers” from obliquely cut away corners in the trailing edge of the flattened tubular segment (30) of Rop et al as cutting to provide “tapered fingers” is known in telescoping processes as disclosed by Borden et al. One of ordinary skill in the art would have been motivated to form said “tapered fingers” as is suggested by Borden et al as one of ordinary skill would readily appreciate that forming said “tapered fingers” would provide more flexibility in the end of segment (30) and therefore the ability to achieve a larger opening space that would enable easier insertion of segment (32) in the disclosed telescoping operation.

As to claim 3, Rop et al further disclose a splicing tape used to fix the ends of the telescoped ends together (Figure 5, element 36; Col 5, lines 65 – 68).

As to claim 4, in an alternative embodiment, Rop et al suggest that the segments can be coated with a saran polymer and bonded together after telescoping, wherein the saran polymer is activated by heat and pressure (Figures 8 and 9; Col. 6, line 46 – Col. 7, line 8).

As to claim 2, although both prior art references appear to diagram telescoping so as to completely insert one tube end into another, in view of the primary reference to Rop et al suggesting to cover the telescoped connection with a splicing tape as addressed in accordance with claim 3, it is the examiner's position that in such an embodiment, one of ordinary skill in the art would have readily appreciated that leaving

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a space between the longitudinal edges of both tubes during the telescoping would have allowed for a shorter insertion length and therein an easier and quicker connection, wherein said space would have been protected and covered by said splicing tape.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Todd J. Kilkenny** whose telephone number is **(703) 305-6386**. The examiner can normally be reached on Mon - Fri (9 - 5).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Ball can be reached on (703) 308-2058. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



TJK
April 3, 2003



Michael W. Ball
Supervisory Patent Examiner
Technology Center 1700